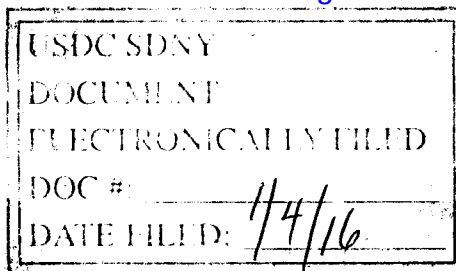


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



----- X  
DAVID E. KAPLAN, et al.,

Plaintiffs,

- against -

S.A.C. CAPITAL ADVISORS, L.P., et al.,

Defendants.  
----- X

No. 12 Civ. 9350 (VM) (KNF)

BIRMINGHAM RETIREMENT AND RELIEF  
SYSTEM et al.,

Plaintiffs,

- against -

S.A.C. CAPITAL ADVISORS, L.P., et al.,

Defendants.  
----- X

No. 13 Civ. 2459 (VM) (KNF)

### **ORDER MODIFYING CLASS DEFINITION**

WHEREAS, the Court certified classes identified as the “Elan Seller Class” and the “Elan Buyer Class” by Decision and Order entered December 2, 2015 (Dkt. No. 243, the “Class Certification Order”);

WHEREAS, the class period for the Elan Seller Class (the “Elan Seller Class Period”), as proposed by Plaintiffs and certified by the Court, was the period August 23, 2006 through and including July 18, 2008;

WHEREAS, Defendants have argued and Plaintiffs now concur that the Elan Seller Class Period should be modified to end on June 17, 2008 rather than July 18, 2008;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Pursuant to Rule 23(c)(1)(C) of the Federal Rules of Civil Procedure, the definition of the Elan Seller Class is hereby amended to read as follows:

All persons who sold American Depositary Receipts ("ADRs") of Elan contemporaneously with Defendants' purchases of Elan ADRs during the period August 23, 2006 through and including June 17, 2008 at 2:00 am EDT (the "Elan Seller Class Period"), and were damaged thereby.

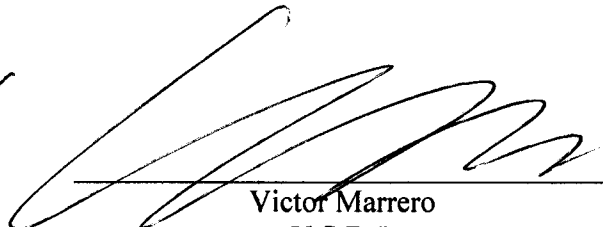
Excluded from the Class are Defendants herein, the employees, officers and directors of SAC during such Class Period, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest.

2. Except as modified hereby, the Class Certification Order remains in full force and effect as entered.

**SO ORDERED.**

Dated: New York, New York

*4 January 2016*

  
\_\_\_\_\_  
Victor Marrero  
U.S.D.J.

*ENC*

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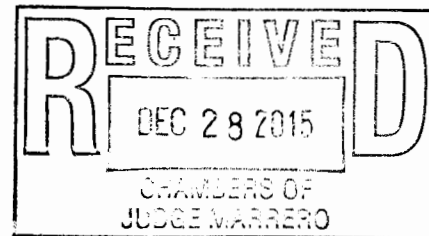
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December 26, 2015

**BY FACSIMILE**

Hon. Victor Marrero  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007



Re: *Kaplan v. S.A.C. Capital Advisors, L.P.*, No. 12 Civ. 9350 (VM) (KNF)

We write on behalf of the *Kaplan* Plaintiffs, with the consent of all parties, to request a modification of the definition of the recently-certified Elan Seller Class.

In Plaintiffs' class certification moving papers, they sought certification of the Elan Seller Class for a period (the Elan Seller Class Period) ending July 18, 2008. (Dkt. No. 192, at 2.) In Defendants' opposition brief, they argued that the Elan Seller Class Period should instead end a month earlier, on June 17, 2008, because that was the date of the last corrective disclosure in the Elan Seller Class Period. (Dkt. No. 217, at 18-22.) Plaintiffs stated in their reply brief, without elaboration, that they did not oppose ending the Elan Seller Class Period on the date advocated by Defendants. (Dkt. No. 233, at 10.) The Court's Decision and Order entered December 2, 2015 adopted the original Elan Seller Class Period, ending July 18, 2008. (Dkt. No. 243, at 2.)

Based on Plaintiffs' further consideration of the relevant legal issues and consultation with their experts, Plaintiffs now agree that the Elan Seller Class Period should end on June 17, 2008 (at the time of the relevant corrective disclosure, at 2:00 a.m. EDT), and we respectfully request that the Elan Seller Class definition be amended accordingly. Defendants have confirmed that they concur, and consent to entry of the enclosed implementing Order, a copy of which has been transmitted to the Orders and Judgments Clerk. For the Court's information, we note that Defendants have filed a pending Rule 23(f) petition with the Second Circuit.

We stand ready to provide any further explanation the Court may wish, and thank the Court for its consideration of this application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ethan Wohl".

Ethan D. Wohl

Enclosure

cc: All Counsel of Record (via email)